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ACRL Legislative Agenda 2020

The ACRL Legislative Agenda and the [ALA Legislative Agenda](#) list objectives for legislative action at the national level on issues that affect the welfare of libraries. ACRL's annual Legislative Agenda focuses on issues affecting academic and research libraries that the U.S. Congress has recently taken action on, or will act on, in the year ahead. ACRL is active in advocating for policy and legislation through the ALA Public Policy and Advocacy Office, as well as through coalition work with groups such as the Open Access Working Group and the Library Copyright Alliance. The following list is in priority order and includes the issues that will be the focus of ACRL's advocacy in 2020:

1. Federal Funding for Libraries
2. Net Neutrality
3. Affordable College Textbook Act
4. Consumer Data Privacy
5. Watchlist
 - a. Public Access to Federally Funded Research
 - b. Federal Depository Library Program (FDLP) Modernization Act
 - c. Deferred Action for Childhood Arrivals (DACA)/Immigration Issues

1. Federal Funding for Libraries

Background

The Institute of Museum and Library Services (IMLS) is the primary source of federal funding for libraries through the Library Services and Technology Act (LSTA). IMLS receives its funding through the annual appropriations process, with the spending limits established each year through the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies. LSTA provides more than \$195.4 million for libraries through programs such as Grants to States, National Leadership Grants for Libraries, Laura Bush 21st Century Librarian Program, and Native American Library Services: Basic Grants. The priorities of the LSTA Grants to States program are reflected in each state's Five-Year Plan.

On December 31, 2018, the president signed into law the Museum and Library Services Act of 2018 (PL 115-410), which reauthorized the existing programs and functions of IMLS and provides new authority to develop and support new museum, library, and information professionals.

In February 2020, the president's FY2021 budget proposal called for the elimination of IMLS, and thus federal funding for libraries. This is the fourth straight year that the president has called for the elimination of federal funding for libraries. Despite these proposals, funding has actually increased over the years. IMLS funding in FY2020 came to roughly \$252 million, up from \$231 million three years ago.

IMLS Director Crosby Kemper III (who was commissioned as the agency's sixth director on January 24, 2020) defended IMLS funding: "We will continue to engage in the budget process with the Administration. For the remainder of this fiscal year, IMLS will continue our work investing in libraries and museums—those anchors in our communities—and helping millions across the nation tell their American stories." The agency further noted that IMLS empowers "libraries to provide increased access and navigation to information so that more people can continue their education, learn critical research skills, and find employment.... Through these and many more projects...libraries across the nation have helped transform and uplift the lives of millions of Americans."

In February 2020, ALA kicked off its #FundLibraries campaign for FY2021.

Current Status

The final FY2020 spending bill, passed December 19, 2019, added funding for libraries and avoided a government shutdown. Congress appropriated \$252 million for IMLS (a \$10 million increase), including a \$6.2 million increase dedicated to LSTA. This is the largest increase in LSTA funding in 12 years. ALA President Wanda Kay Brown said in a December 19 statement, "This is your win!"

The President's FY2021 Budget Request to Congress begins the appropriations process. Congress will need to pass all funding bills by October 1, 2020, in order to avert a government shutdown, or pass a short-term funding measure (called a "continuing resolution").

ACRL's Position

ACRL and ALA continue their campaign to preserve federal funding for libraries through IMLS. Through its #FundLibraries campaign, ALA has protected vital programs and is continuously advocating to Congress to make full funding for our nation's libraries a priority. Despite past attempts to propose elimination of federal funding for libraries, Library funding has steadily increased over the past three years with continued advocacy and demonstration of the impact of libraries on our communities.

Links to More Information

[IMLS legislation timeline and budget](#)

[IMLS FY2020 appropriations request submitted to Congress March 2019](#)

[ALA summary of positions on federal funding](#)

[ALA Fund Libraries Campaign](#)

[IMLS received \\$10 million increase in FY2020](#)

2. Net Neutrality

Background

Network neutrality is the principle that internet service providers (ISPs) should treat all data equally and should not discriminate or provide preference to any data regardless of its source, content, or destination. Whether legislation is needed to ensure this kind of access has become a focal point in the debate over telecommunications reform. Those opposed to access mandates claim that such action goes against the long-standing policy to keep the Internet as free as possible from regulation and note the state of the Internet before this attempted regulation has allowed for commercial innovation and growth. In 2015, the Obama Administration asked the Federal Communications Commission (FCC) to rule in favor of net neutrality by reclassifying broadband as a common carrier under Title II of the Communications Act of 1934 and Section 706 of the Telecommunications Act of 1996. In February 2015, FCC approved reclassifying high-speed Internet as a telecommunications service rather than an information one, subjecting providers to regulation. In December 2017, FCC voted in favor of repealing these policies, 3–2, along party lines. On October 1, 2019, the U.S. Court of Appeals for the District of Columbia Circuit upheld the government’s repeal of strict regulations for the companies that connect consumers to the internet. However, the court also ruled the FCC had overstepped its legal authority when it declared that states cannot pass their own net neutrality laws and ordered the agency to review some aspects of its 2017 repeal of the rules, including public safety implications and how its decision will impact a government subsidy program for low-income users. In petitions filed in December 2019, tech and advocacy groups, along with 15 states that challenged the original decision, requested that the ruling be reconsidered.

Current Status

On February 7, 2020, the full U.S. Court of Appeals for the District of Columbia declined without comment to rehear the decision that upheld the repeal of net neutrality laws, as did the three-judge panel that issued the ruling in October 2019. The appeals court’s decision marks another win for FCC and allows the repeal of net neutrality laws to stand.

Impact on Libraries

Educational institutions, including libraries, rely on the high-bandwidth applications and services that support access to resources, collaboration, content creation, and learning—activities core to their mission. The rollback of Obama-era net neutrality protections may lead to additional layers of economic influence making it more difficult for students and the public to access educational resources, with increased costs being passed on to both the consumer and educational institutions. Discriminatory network management practices by ISPs will inhibit the ability of colleges, universities, and libraries to be equal access providers of digital content and applications of all types via the Internet.

ACRL’s Position

ACRL stands with ALA as advocates for equitable access to the internet and for the network neutrality protections needed for libraries to fully serve their communities in the digital age. Without strong and clear net neutrality protections in place, there is nothing to stop ISPs from blocking or throttling legal internet traffic or setting up commercial arrangements, where certain traffic is prioritized. In a March 2017 letter to FCC before the repeal vote, ACRL joined with

several other associations in asserting that, “preserving the unimpeded flow of information over the public Internet and ensuring equitable access for all people is critical to our nation’s social, cultural, educational, and economic well-being.” ACRL will continue to advocate and defend the principles of net neutrality to ensure equitable access for libraries.

Links to More Information

[U.S. appeals court will not reconsider net neutrality repeal ruling](#)

[D.C. Circuit Court delivers mixed ruling on net neutrality](#)

[Washington Hotline: The fight for network neutrality continues, despite disappointing court ruling](#)

[The state of net neutrality: A coast-to-coast roundup of efforts to restore the open internet](#)

[Net neutrality: A summary of positions by the American Library Association](#)

[Net neutrality updates: What the future holds in Mozilla case](#)

[Joint ACRL/ALA letter to FCC outlining net neutrality principles](#)

3. Affordable College Textbook Act

Background

The Affordable College Textbook Act addresses a critical challenge to college affordability. The increasing cost of textbooks has drawn the attention of students, parents, faculty, and institutions across the higher education sector. As a result, legislation has been introduced to combat these rising costs. The bill was first introduced in the 113th, 114th, and 115th Congress, but it did not advance.

According to [SPARC](#), the Affordable College Textbook Act:

- creates a grant program to support pilot programs at colleges and universities to create and expand the use of open textbooks with priority for those programs that will achieve the highest savings for students,
- ensures that any open textbooks or educational materials created using program funds will be freely and easily accessible to the public,
- requires entities who receive funds to complete a report on the effectiveness of the program in achieving savings for students,
- improves existing requirements for publishers to make all textbooks and other educational materials available for sale individually rather than as a bundle, and
- requires the Government Accountability Office to provide an updated report on the price trends of college textbooks to Congress.

The Affordable College Textbook Act is supported by U.S. PIRG, SPARC, National Association of College Stores, Association of Big Ten Students, Young Invincibles, American Federation of Teachers, National Education Association, Service Employees International Union, American Association of Community Colleges, Association of Community College Trustees, UNCF, Creative Commons, Association of Research Libraries, theACRL, and CAST.

Current Status

On April 4, 2019, U.S. Senators Dick Durbin (D-IL), Angus King (I-ME), Tina Smith (D-MN), and Kyrsten Sinema (D-AZ), along with U.S. Representative Joe Neguse (D-CO-02), reintroduced the Affordable College Textbook Act to both houses of Congress. The bill, entered as [H.R.2107](#) and [S.1036](#), was referred to the [House Committee on Education and Labor](#) and to the [Senate Committee on Health, Education, Labor, and Pensions](#).

The Affordable College Textbook Act aims to permanently authorize funds for a grant program for the creation of Open Educational Resources (OER), following a pilot last year of \$10 million that went to three institutions. It also asks institutions to increase transparency around course material costs.

Although the Affordable College Textbook Act itself remains in committee, Congress has funded the intended pilot projects through the [Open Textbook Pilot Grant Program](#). In December 2019, a bipartisan budget agreement, the [Further Consolidated Appropriations Act, 2020](#), renewed the pilot grant program for a third year. The allocation allows up to \$7 million for FY2020, a \$2 million increase over previous years.

Impact on Academic Libraries

Academic librarians are concerned about the affordability of higher education and the negative impact rising textbook costs have on students' success. Campus libraries are known for facilitating free access to information resources through curated print and digital collections, course materials that faculty place on reserve, and interlibrary loan services. Digital Open Educational Resources are part of a larger open access movement to expand free, public access to scholarly and learning resources. College and university campuses are key locations sharing this content, encouraging their adaption for coursework, and expanding the corpus of openly available course content. As part of the commitment to embed information literacy and access to quality resources into the student experience and strategies for teaching and learning, librarians are working with academic colleagues to create such resources and to offer them freely for adoption by others.

OER are a growing part of academic library programs that support new methods of scholarly communication, open access, library publishing, and digital scholarship. They also may be a component of implementing new open pedagogies and developing digital literacy for students and faculty.

ACRL's Position

ACRL joined with 14 other organizations to support the Affordable College Textbook Act in its introduction to Congress. This legislation's aim at equity of access to higher education reflects ACRL's values. Under the aegis of the proposed legislation, ACRL also supports continued funding for the Open Textbook Pilot Program.

Links to More Information

Affordable College Textbook Act

[Text of H.R.2107 / S.1036](#)

[SPARC description](#)

[SPARC fact sheet](#)

[U.S. PIRG press release](#)

Open Textbook Pilot Program

[Program award page \(U.S. Department of Education\)](#)

[SPARC description](#)

[LibreTexts project at University of California, Davis \(funded through the Open Textbook Pilot Program\)](#)

Other OER information

[Babson Survey Research Group national survey on OER adoption](#)

4. Consumer Data Privacy

Background

Consumer Data Privacy deals with the right of consumers to be aware and in control of how their personal data is being used and sold by online companies. States have been working on consumer data privacy laws, such as Colorado, which passed [Protections for Consumer Data Privacy](#), and California, which passed the [California Consumer Privacy Act](#). The California Consumer Privacy Act requires companies to provide consumers with three primary rights: 1) a consumer has a right to know what information a business is collecting and selling, 2) a consumer has the right to opt out of the sale of the consumer's information, and 3) in certain circumstances, a consumer has the right to request that a business delete the consumer's information (Mulligan, Freeman, & Linebaugh, March 2019).

Given the impetus of the California law, the [EU's General Data Protection Regulation](#), and recent data breaches, there has been a greater push to construct a U.S federal consumer data privacy law (Orlofsky, March 2019). Bipartisan members of Congress have been working on legislation related to privacy in recent years with several bills introduced:

- [Data Care Act](#) was introduced in Senate December 2018 and imposes various duties on online service providers with respect to their handling of user data, including duties to 1) reasonably secure sensitive data from unauthorized access, 2) refrain from using such data in a way that will result in reasonably foreseeable harm to the end user, and 3) not disclose individual identifying data to another party unless that party is also bound by the duties established in this bill. The bill authorizes Federal Trade Commission (FTC) and specified state officials to take enforcement actions with respect to breaches of such duties.
- [American Data Dissemination \(ADD\) Act](#) was introduced in Senate January 2019 and requires FTC to recommend legislative action to impose privacy requirements on providers of internet services, such as restrict a provider from disclosing a user's records, provide a user with the right to access and correct records, establish practices for the collection and maintenance of records, and exempt certain small providers from regulations' requirements.
- [Social Media Privacy Protection and Consumer Rights Act](#) was introduced in Senate January 2019 and is intended to protect the privacy of users of social media and online platforms.

- [Protecting Consumer Information Act](#) was introduced in the House January 2019 and requires FTC to review protections of customer information against cyber threats. The bill includes provisions related to investigations, enforcement, and regulations that apply to consumer reporting agencies.
- [A bill to amend the Children's Online Privacy Protection Act of 1998 to strengthen protections relating to the online collection, use, and disclosure of personal information of children and minors, and for other purposes](#) was introduced to Senate March 2019.

Current Status

On November 27, 2019, a [staff draft of the United States Consumer Data Privacy Act](#) (USCDPA) was released. The draft is informed by more than a year of bipartisan negotiations and feedback from consumer advocates, state and local governments, and a number of stakeholders representing many sectors of the economy.

USCDPA would:

- establish a national standard for the protection of consumer data privacy, bringing the United States in line with the European Union and other nations with unified standards and giving consumers strong protections regardless of where in America they live, work, or engage in commerce, both online and offline;
- give consumers control over their data with the ability to know what companies have collected about them and request that it be corrected, deleted, or made portable, and the right to consent to or opt out of data practices in a clear and consistent way;
- protect the data of minors under the age of 16 by requiring the individual or the individual's parent or guardian to provide affirmative express consent (i.e., opt-in consent) before the minor's data can be transferred to a third-party;
- require transparency and accountability on the part of companies who collect and process consumer data, including standards for privacy policies, internal privacy controls, the designation of privacy and data security officers, and a new data broker registry;
- combat negative uses of data by setting standards for data security and supporting efforts to mitigate algorithm bias and digital content forgeries, such as "deep fakes";
- provide FTC with new resources and capabilities to enforce privacy protections, including through targeted rulemaking authority on key issues and by expanding the Commission's authority to cover nonprofits and common carriers;
- allow states to protect their citizens by granting state attorneys general the authority to enforce the provisions of the federal law; and
- preserve existing federal privacy laws that have been effective in protecting certain types of consumer data, such as the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191).

In March 2019, Orlofsky wrote in the ALA Intellectual Freedom Blog, the "issue of consumer data privacy is still very much in flux. While states continue to work independently, it remains to be seen whether a federal privacy bill will be passed this year and, if so, what it will look like." Although this was written toward the beginning of 2019, it still very much applies in 2020.

Impact on Academic Libraries

Libraries retain and take careful steps to safeguard patron's data, including circulation records, database searches, and Internet browsing usage histories. The protection of the patron's right to privacy and freedom from monitoring of their selection and use of information sources is a core value of professional librarians. Students, faculty, researchers, and other stakeholders often use third-party software when using library sources, such as resource management tools, readers, and other online service providers. Access to patron data by third parties essentially destroys assurance of privacy when using library resources.

When evaluating legislation, we must thoroughly understand legal, audit and cost compliance that will impact academic institutions. The EDUCAUSE Policy Advisory Committee delegated resources to evaluating the changes of the Safeguards Rule and CUI guidelines in 2019 and expressed, "Concern about the growing tendency of legislative and regulatory privacy proposals to emphasize perspective 'checklists' of requirement, as opposed to supporting compliance based on risk management" (Cummings, January 2020). These are valuable points to consider when reviewing legislation concerning data privacy. We must work with legislative representatives to address these policy issues, while maintaining patron privacy as a top priority.

ACRL's Position

The individual's right to privacy has long been an issue of interest and advocacy for the library community because it values the principles of free speech, inquiry, personal rights, and open government. Article VII of the [Library Bill of Rights](#) states "Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information." The ongoing concern over the erosion of individual privacy and predatorial online data mining practices warrants attention, engagement, and advocacy for government protections of the individual's right to privacy.

Links to More Information

[CRS Report-Data protection law: An overview \(3/25/2019\)](#)

[ALA Intellectual Freedom Blog-Consumer data privacy and the federal government \(3/27/2019\)](#)

[Chairman Wicker's discussion draft of the United States Consumer Data Privacy Act \(12/3/2019\)](#)

[U.S. federal policy perspectives on the EDUCAUSE 2020 Top 10 IT issues](#)

5. Watchlist

There are additional policy issues of great concern to academic librarians that are not included above because there is no pending legislation. Nevertheless, if legislation does arise or becomes necessary, ACRL will advocate for the best interests of academic and research libraries by relying on past precedent and current analysis.

a. Public Access to Federally Funded Research

The [Fair Access to Science and Technology Research Act \(FASTR\)](#) was intended to mandate federal agencies and departments to preserve and make publicly available publicly funded research. The Federal Research Public Access Act (FRPAA), the predecessor to FASTR, was first introduced in 2006, reintroduced in 2009, and reintroduced again in the 112th Congress on February 9, 2012. It was superseded by FASTR, originally introduced in 2013, refiled on March

18, 2015, as S.779/H.R.1477, and again in summer 2017 as H.R.3427/S.1701, with bipartisan support in both the House and the Senate chambers.

While FASTR has not been reintroduced to Congress since 2017, and is not likely to be in the near future, it has widespread support among the library, higher education, advocacy, and funding organizations with a commitment to increased openness to results of sponsored research, including both published articles and research data. New legislation needs to cover both, with reuse rights and immediate access (no embargoes). In addition to data gathered during the research process, access should include any code, software, algorithms, and computational tools that were developed and are necessary to validation. ACRL takes the position that new legislation should be developed to bring policy up to date, it should be inclusive of all research outputs and consistent with the policies in other countries.

b. Federal Depository Library Program (FDLP) Modernization Act

In March 2018, the House filed H.R.5305, the [FDLP Modernization Act of 2018](#). The bill addressed many issues, including improved access to electronic resources, digitization of historical publications for public access, modernization of the online repository, free public access to GPO's online repository ([govinfo.gov](#)), and improved access to cataloging data produced by SuDoc. The American Library Association (ALA), American Association of Law Libraries, and the Association of Research Libraries [co-signed a letter of support](#) for H.R.5305, while the GPO [published a statement](#) of their own. In April, amendments to H.R.5305 were made available by the Committee on House Administration. The Congressional Budget Office (CBO) released their [cost estimates for H.R.5305](#) (the FDLP Modernization Act) on May 25, 2018. However, progress stalled, and H.R.5305 died when the 115th Congress ended in January 2019. There is hope that this bill will find a new sponsor during the 116th Congress.

c. Deferred Action for Childhood Arrivals (DACA)/Immigration Issues

The DACA program, put in place by the Obama Administration in 2012, protects individuals brought to the United States as children from deportation and is currently in litigation. In January 2018, a nationwide preliminary injunction was issued on the September 2017 rescission of the DACA program. In June 2018, the [Memorandum from Secretary Kirstjen M. Nielsen](#) agreed with the decision of Acting Secretary Elaine C. Duke under the [Duke Memorandum](#) (set on September 5, 2017) to rescind the DACA policy. Despite the efforts of the Secretary of Homeland Security and the Trump Administration, the Ninth Circuit Court of Appeals upheld the nationwide preliminary injunction and required Department of Homeland Security to continue accepting renewal applications ([National Law Review, November 12, 2018](#)). The Supreme Court, in 2019, decided to review the DACA issue during its October term, and a decision is anticipated sometime in 2020 ([National Law Review, July 8, 2019](#)). The [U.S. Citizenship and Immigration Services](#) (USCIS) is not accepting requests from individuals who have never been granted deferred action under DACA, but due to ongoing court orders, USCIS continues to accept renewal requests.

The [ACRL Board of Directors has publicly recognized DACA students](#), faculty, and staff in higher education—many of whom work in libraries—as important and valued members of the academic community. The loss of these groups who “contribute their unique perspectives” would “harm intellectual freedom by removing the voices of vulnerable groups from the scholarly

discourse, and would jeopardize the invaluable cultural enrichment brought to our campuses by immigrant students, faculty, and staff.”